



INTERIOR BOARD OF INDIAN APPEALS

Estate of Arden Edmund Post, Sr.

35 IBIA 77 (06/13/2000)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF ARDEN EDMUND POST, SR. : Order Docketing and Dismissing
: Appeal
:
:
: Docket No. IBIA 00-58
:
:
: June 13, 2000

On April 18, 2000, the Board of Indian Appeals received a notice of appeal from Roxann Post Campbell (Appellant), through counsel, John Paul Kennedy, Esq., Salt Lake City, Utah. Appellant sought review of a February 17, 2000, Decision on Re-Opening issued in the estate of Arden Edmund Post, Sr. (Decedent) by Administrative Law Nicholas T. Kuzmack.

In the decision appealed, Appellant was held to be an heir of Decedent. However, Judge Kuzmack found that "no reasonable possibility exists for correcting the distribution of income to the estate prior to the date of [Administrative Law] Judge [James H.] Heffernan's [August 7, 1997,] order directing that [Appellant's] share be escrowed."

In her notice of appeal, Appellant contended:

[T]he decision of the administrative law judge was arbitrary, capricious, and contrary to law and facts in the record. The decision erroneously limited [Appellant's] entitlement to share in her father's estate to an effective date of August 7, 1997, when there had been evidence to show that at least two of the other heirs were under the age of 18 at the time the Petition to re-open was filed, and hence it was possible and practical, at least with respect to those heirs, to readjust the distribution retroactively to the date of decedent's death. Failure to do so deprived Petitioner of her property without just compensation and contrary to her constitutional rights.

Appellant's notice of appeal failed to show that it had been served on the interested parties. On April 20, 2000, the Board issued an order requiring that Appellant serve her notice of appeal on the interested parties and that she state with more particularity the relief she sought in her appeal)) that is, that she describe her theory of how her proposed redistribution would be accomplished.

Appellant's response to the Board's order was due May 15, 2000. No response has been received.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but is dismissed for failure to prosecute.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge